

may fail to meet the diameter requirements of this paragraph.

(6) Each No. 22D standard lug box or No. 32 standard box of loose-filled peaches shall bear on one outside end, in plain sight and in plain letters, the words "25 pounds net weight."

(7) Each No. 22E standard lug box of loose-filled peaches shall bear on one outside end, in plain sight and in plain letters, the words *35 pounds net weight*.

(8) Each bulk bin container of loose-filled peaches shall contain not less than 400 pounds net weight, and bear on one outside panel, in plain sight and in plain letters, the following information:

(i) The name and address (including zip code) of the shipper.

(ii) The net weight.

(9) Each master container when filled with peaches packed in consumer packages shall bear on one outside end in plain sight and in plain letters the following information:

(i) The number of individual consumer packages, the net weight of each consumer package, and the size description of the contents: *Provided*, That when consumer packages of different sizes of peaches are contained in a master container, the size description of the contents shall indicate the minimum size contained therein, using the terms "Minimum size 60 and larger," or "Minimum size 70 and larger," etc., as applicable.

(ii) The name and address (including zip code) of the shipper.

(10) Each individual consumer package shall bear the name and address, including the zip code, of the shipper and the net weight. When a consumer package is not in a master container, it must also bear the number of peaches contained in the package, the name of the variety, if known, or if the variety is not known, the words *Unknown Variety*, and be marked as specified paragraph (a)(3) of this section.

(b) As used in this section, "standard pack" and "fairly uniform in size" shall have the same meaning as set forth in the U.S. Standards for Grade of Peaches (§§51.1210 to 51.1223) and all other terms shall have the same meaning as when used in the amended marketing agreement and order. A No. 12B standard fruit box measures  $2\frac{3}{8}$  to

$7\frac{1}{8}\times 11\frac{1}{2}\times 16\frac{1}{8}$  inches, No. 22D standard lug box measures  $2\frac{7}{8}$  to  $7\frac{1}{8}\times 13\frac{1}{2}\times 16\frac{1}{8}$  inches, No. 22E standard lug box measures  $8\frac{3}{4}\times 13\frac{1}{2}\times 16\frac{1}{8}$  inches, No. 22G standard lug box measures  $7\frac{3}{8}$  to  $7\frac{1}{2}\times 13\frac{1}{4}\times 15\frac{7}{8}$  inches, No. 32 standard box measures  $5\frac{3}{4}$  to  $7\frac{1}{4}\times 12\times 19\frac{3}{4}$  inches. All dimensions are given in depth (inside dimensions) by width by length (outside dimensions). "Individual consumer packages" means packages holding 15 pounds or less net weight of peaches. "Tree ripe" means "tree ripened" and fruit shipped and marked as "tree ripe," "tree ripened," or any similar terms using the words "tree" and "ripe" must meet the minimum California Well Matured standards.

(c) Each container of peaches in plastic,  $12\times 19\frac{3}{4}$  inch reusable and recyclable containers shall meet and bear, on the container lid or on the outside end, all applicable marking requirements under the order.

(d) During the period April 20, 1999 through November 23, 1999, each container or package when packed with peaches meeting "CA Utility" quality requirements, shall bear the words "CA Utility," along with all other required container markings, in letters at least  $\frac{3}{8}$  inch in height on the visible display panel. Consumer bags or packages must also be clearly marked on the consumer bags or packages as "CA Utility," along with other required markings, in letters at least  $\frac{3}{8}$  inch in height.

[50 FR 39074, Sept. 27, 1985, as amended at 54 FR 27861, July 3, 1989; 55 FR 24222, June 15, 1990; 56 FR 40225, Aug. 14, 1991; 57 FR 20739, May 15, 1992; 57 FR 42682, Sept. 16, 1992; 59 FR 15840, Apr. 5, 1994; 59 FR 31120, June 17, 1994; 60 FR 14896, Mar. 21, 1995; 61 FR 13392, Mar. 27, 1996; 61 FR 19164, May 1, 1996; 61 FR 31391, June 20, 1996; 62 FR 15361, Apr. 1, 1997; 63 FR 16041, Apr. 1, 1998; 63 FR 44370, Aug. 19, 1998; 64 FR 19033, Apr. 19, 1999]

### Subpart—Grade and Size Regulation

#### §917.459 California Peach Grade and Size Regulation.

(a) During the period beginning April 1 and ending November 23, no handler shall ship:

(1) Any lot or package or container of any variety of peaches unless such

peaches meet the requirements of U.S. No. 1 grade: *Provided*, That an additional 25 percent tolerance shall be permitted for fruit with open sutures which are damaged, but not seriously damaged: *Provided further*, That during the period April 20, 1999 through November 23, 1999, any handler may handle peaches if such peaches meet "CA Utility" quality requirements. The term "CA Utility" means that not more than 40 percent of the peaches in any container meet or exceed the requirements of the U.S. No. 1 grade, except that when more than 30 percent of the peaches in any container meet or exceed the requirements of U.S. No. 1 grade, the additional 10 percent shall have non-scoreable blemishes as determined when applying the U.S. Standards for Grades of Peaches; and that such peaches are mature and are:

(i) Free from insect injury which has penetrated or damaged the flesh; split pits which cause an unhealed crack or one or more healed cracks which, either singly or in the aggregate, are more than ½ inch in length; and mold, brown rot, and decay; and

(ii) Free from serious damage due to cuts, skin breaks, growth cracks, bruises, scab, rust, blight, disease, hail or other causes. Damage to any peach is serious when it causes a waste of 10 percent or more, by volume, of the individual peach.

(iii) *Tolerances*. Not more than 10 percent, by count, of the peaches in any container may be below the requirements prescribed by this paragraph. Not more than one-half of this tolerance shall be allowed for any one cause. Individual containers in any lot may contain not more than one and one-half times the tolerances specified if the percentage of defects of the entire lot averages within the tolerances.

(iv) The Federal or Federal-State Inspection Service shall make final determinations on maturity through the use of color chips or such other tests as determined appropriate by the inspection agency. The Federal or Federal-State Inspection Service will use the maturity guides listed in table 1 to paragraph (a)(1)(iv) in making maturity determinations for the specified varieties when inspecting to the "well matured" level of maturity. For these

varieties, not less than 90 percent of any lot shall meet the color guide established for the variety, and an aggregate area of not less than 90 percent of the fruit surface shall meet the color guide established for the variety. For varieties not listed, the Federal or Federal-State Inspection Service will use such tests as it deems proper. A variance for any variety from the application of the maturity guides specified in table 1 to paragraph (a)(1)(iv) may be granted during the season to reflect changes in crop, weather, or other conditions that would make the specified inappropriate measure of "well matured."

TABLE 1 TO PARAGRAPH (a)(1)(iv)

Column A—variety	Column B—maturity guide
Ambercrest .....	G
Angelus .....	I
August Lady .....	L
August Sun .....	I
Autumn Crest .....	I
Autumn Gem .....	I
Autumn Lady .....	H
Autumn Rose .....	I
Belmont (Fairmont) .....	I
Berenda Sun .....	I
Blum's Beauty .....	G
Cal Red .....	I
Carnival .....	I
Cassie .....	H
Coronet .....	E
Crimson Lady .....	J
Crown Princess .....	J
David Sun .....	I
Diamond Princess .....	J
Early Delight .....	H
Early Elegant Lady .....	L
Early May Crest .....	H
Early O'Henry .....	I
Early Top .....	G
Elberta .....	B
Elegant Lady .....	L
Fairtime .....	G
Fancy Lady .....	J
Fay Elberta .....	C
Fayette .....	I
Fire Red .....	I
First Lady .....	D
Flamecrest .....	I
Flavorcrest .....	G
Flavor Queen .....	H
Flavor Red .....	G
Franciscan .....	G
Goldcrest .....	H
Golden Crest .....	H
Golden Lady .....	F
Honey Red .....	G
John Henry .....	J
July Elberta .....	C
June Lady .....	G
June Pride .....	J
June Sun .....	H
Kern Sun .....	H
Kingscrest .....	H

TABLE 1 TO PARAGRAPH (a)(1)(iv)—Continued

Column A—variety	Column B—maturity guide
Kings Lady .....	I
Kings Red .....	I
Lacey .....	I
Lady Sue .....	L
Mary Anne .....	G
May Crest .....	G
May Sun .....	I
Merrill Gem .....	G
Merrill Gemfree .....	G
O'Henry .....	I
Pacifica .....	G
Parade .....	I
Pat's Pride .....	D
Prima Gattie 8 .....	L
Prima Lady .....	J
Queencrest .....	G
Ray Crest .....	G
Red Cal .....	I
Red Dancer (Red Boy) .....	I
Redhaven .....	G
Red Lady .....	G
Redtop .....	G
Regina .....	G
Rich Lady .....	J
Rich May .....	H
Rich Mike .....	H
Rio Oso Gem .....	I
Royal Lady .....	J
Royal May .....	G
Ruby May .....	H
Ryan Sun .....	I
Scarlet Lady .....	F
September Sun .....	I
Sierra Crest .....	H
Sierra Lady .....	I
Sparkle .....	I
Springcrest .....	G
Spring Lady .....	H
Springold .....	D
Sugar Lady .....	J
Summer Lady .....	L
Summerset .....	I
Suncrest .....	G
Sweet Scarlet .....	J
Topcrest .....	H
Tra Zee .....	J
Willie Red .....	G
Zee Lady .....	L

NOTE: Consult with the Federal or Federal-State Inspection Service Supervisor for the maturity guides applicable to the varieties not listed in table 1 of this paragraph.

(v) If a grower or handler believes his/her fruit is meeting the appropriate maturity level but the fruit has not been so graded by the inspector, he/she may appeal the inspection by calling the officer-in-charge of the local Federal-State Inspection Service office to arrange for an on-site examination of the fruit.

(2) Any package or container of Earlitreat or Lady Sue variety peaches unless:

(i) Such peaches when packed in molded forms (tray packs) in a No. 22D standard lug box or a No. 32 standard

box are of a size that will pack, in accordance with the requirements of standard pack, not more than 96 peaches in the box; or

(ii) Such peaches in any container when packed other than as specified in paragraph (a)(2)(i) of this section are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 96 peaches.

(3) Any package or container of Goldcrest, Super Rich, or Topcrest variety peaches unless:

(i) Such peaches when packed in molded forms (tray packs) in a No. 22D standard lug box or a No. 32 standard box are of a size that will pack, in accordance with the requirements of standard pack, not more than 88 peaches in the box; or

(ii) Such peaches in any container when packed other than as specified in paragraph (a)(3)(i) of this section are of a size that a 16-pound sample representative of the peaches in the package or container, contains not more than 92 peaches.

(4) Any package or container of Snow Dance variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 84 peaches in the box; or

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of a standard pack, not more than 65 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in paragraph (a)(4) (i) and (ii) of this section are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 83 peaches.

(5) Any package or container of Babcock, Crimson Lady, Crown Princess, David Sun, Early May Crest, Flavorcrest, Golden Crest, June Lady, Kern Sun, May Crest, May Sun, Merrill Gemfree, Pink Rose, Prima Peach IV, Queencrest, Ray Crest, Redtop, Rich May, Rich Mike, Snow Brite, Springcrest, Spring Lady, Spring

Snow, Sugar May, Sweet Scarlet, or White Dream variety of peaches unless:

(i) Such peaches when packed in molded forms (tray packs) in a No. 22D standard lug box or a No. 32 standard box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the box; or

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 65 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in paragraph (a)(5) (i) and (ii) of this section are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 76 peaches.

(6) Any package or container of Amber Crest, August Lady, Autumn Flame, Autumn Lady, Autumn Rose, Cal Red, Carnival, Cassie, Champagne, Diamond Princess, Early Elegant Lady, Early O'Henry, Elegant Lady, Fairtime, Fancy Lady, Fay Elberta, Flamecrest, John Henry, June Pride, Kaweah, Kings Lady, Lacey, Late Ito Red, Madonna Sun, Morning Lord, O'Henry, Prima Gattie, Prima Peach 13, Prima Peach 20, Prima Peach 23, Red Dancer, Rich Lady, Royal Lady, Ryan Sun, Saturn (Donut), Scarlet Snow, September Snow, September Sun, Sierra Lady, Snow Diamond, Snow Giant, Snow King, Sparkle, Sprague Last Chance, Sugar Giant, Sugar Lady, Summer Lady, Summer Sweet, Summer Zee, Suncrest, Tra Zee, Vista, White Lady, Yukon King, Zee Lady, or 1-01-505 variety of peaches unless:

(i) Such peaches when packed in molded forms (tray packs) in a No. 22D standard lug box or a No. 32 standard box are of a size that will pack, in accordance with the requirements of standard pack, not more than 72 peaches in the box, or, if the peaches are "well matured," not more than 80 peaches in the box; or

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack in accordance with the requirements of standard

pack, not more than 65 peaches in the lug box.

(iii) Such peaches in any container when packed other than as specified in paragraphs (a)(6) (i) and (ii) of this section are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 64 peaches or if the peaches are "well matured" not more than 73 peaches.

(b) During the period April 1 through June 30 of each fiscal period, no handler shall handle any package or container of any variety of peaches not specifically named in paragraphs (a)(2), (a)(3), (a)(4), (a)(5), or (a)(6) of this section unless:

(1) Such peaches when packed in molded forms (tray packs) in a No. 22D standard lug box or a No. 32 standard box are of a size that will pack, in accordance with the requirements of standard pack, not more than 96 peaches in the box; or

(2) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack in accordance with the requirements of standard pack, not more than 65 peaches in the box; or

(3) Such peaches in any container when packed other than as specified in paragraphs (b)(1) and (b)(2) of this section are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 96 peaches.

(c) During July 1 through October 31 of each fiscal period, no handler shall handle any package or container of any variety of peaches not specifically named in paragraphs (a)(2), (a)(3), (a)(4), (a)(5), or (a)(6) of this section unless:

(1) Such peaches when packed in molded forms (tray packs) in a No. 22D standard lug box or a No. 32 standard box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the box; or

(2) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack in accordance with the requirements of standard pack, not more than 65 peaches in the box; or

(3) Such peaches in any container when packed other than as specified in paragraphs (c)(1) and (c)(2) of this section are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 73 peaches.

(d) The following procedure shall be used in determining whether peaches meet the minimum size requirements specified for each size category in this section applying a 16-pound sample. A sample consisting of one-half of the number of fruit specified for a 16-pound sample for a particular size category shall be used, provided such sample weighs at least eight pounds. When one-half the specified number of fruit in a sample results in a number ending with one-half a fruit, the smaller full number of fruit shall be used to determine the sample weight. If a sample fails with respect to minimum size requirements on the basis of an 8-pound sample, a 16-pound sample shall be used to determine if the fruit meets the minimum size requirements.

(e) *Container tolerances.* The contents of individual packages in the lot are subject to the following limitations, provided the averages for the entire lot are within the tolerances specified in this part:

(1) For packages which contain more than 10 pounds, and a tolerance of 10 percent or more is provided, individual packages shall have not more than one and one-half times the tolerance specified. For packages which contain more than 10 pounds and a tolerance of less than 10 percent is provided, individual packages shall have not more than double the tolerance specified.

(2) For packages which contain 10 pounds or less, individual packages are not restricted as to the percentage of defects.

(f) As used herein, *U.S. No. 1, mature*, and *standard pack*, mean the same as defined in the United States Standards for Grades of Peaches (7 CFR 51.1210 through 51.1223); and *No. 22D standard lug box* and *No. 12B standard fruit (peach) box* mean the same as defined in section 1380.19 (18) of the "Regulations of the California Department of Food and Agriculture". *Well matured* means a

condition distinctly more advanced than *mature*.

[59 FR 15841, Apr. 5, 1994, as amended at 60 FR 14896, Mar. 21, 1995; 60 FR 30997, June 12, 1995; 61 FR 13392, Mar. 27, 1996; 61 FR 19164, May 1, 1996; 61 FR 31391, June 20, 1996; 62 FR 15361, Apr. 1, 1997; 62 FR 50860, Sept. 29, 1997; 63 FR 16042, Apr. 1, 1998; 63 FR 44370, Aug. 19, 1998; 63 FR 50464, Sept. 22, 1998; 64 FR 19033, Apr. 19, 1999]

**§917.461 Pear Regulation 12.**

(a) No handler shall ship:

(1) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears which do not grade at least U.S. Combination with not less than 80 percent, by count, of the pears grading at least U.S. No. 1: *Provided*, That for the 1992 crop year, no handler shall ship organic pears of these varieties unless they grade at least U.S. Combination with not less than 50 percent, by count, grading at least U.S. No. 1 and the remainder grading at least U.S. No. 2, except that russetting shall not be scored as a defect for such organic pears. Handlers who intend to ship organic pears in accordance with this paragraph shall provide, upon request of the committee, with the approval of the Secretary, information to indicate that the pears were grown in accordance with the provisions of paragraph (b)(5) of this section.

(2) Any box or container, including consumer packages in master containers and consumer packages not in master containers, of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears unless such pears are of a size not smaller than the size known commercially as size 165;

(3) Any box or container, other than consumer packages in master containers and consumer packages not in master containers, of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears unless such box or container is stamped or otherwise marked, in plain sight and in plain letters, on one outside end with the name of the variety;

(4) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears, when packed in closed containers, other than consumer packages in master containers and consumer